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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on the 3rd September, 1973:—

BILL No. 75 OF 1973

A Bill further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and the Companies (Profits) Surtax Act, 1964 and to provide for certain related matters.

BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Direct Taxes (Amendment) Act, 1973.

(*2*) Save as otherwise provided in this Act, it shall be deemed to have come into force on the 1st day of April, 1973.

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

Amendment of section 19.

43 of 1961.

2. In section 10 of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act),—

(*a*) in sub-clause (*viia*) of clause (*6*), before the *Explanation*, the following proviso shall be inserted, namely:—

"Provided that the Central Government may, if it considers it necessary or expedient in the public interest so to do, waive the condition specified in item (*1*) of this sub-clause in the case of

any individual who is employed in India for designing, erection or commissioning of machinery or plant or supervising activities connected with such designing, erection or commissioning.";

(*b*) in clause (*15*), after item (*c*) of sub-clause (*iv*), the following items shall be inserted, namely:—

"(*d*) by the Industrial Finance Corporation of India established by the Industrial Finance Corporation Act, 1948 or the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 or the Industrial Credit and Investment Corporation of India (a company formed and registered under the Indian Companies Act, 1913), on any moneys borrowed by it from sources outside India, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment; 15 of 1948. 18 of 1964. 7 of 1913.

(*e*) by any other financial institution established in India or a banking company to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act), on any moneys borrowed by it from sources outside India under a loan agreement approved by the Central Government where the moneys are borrowed either for the purpose of advancing loans to industrial undertakings in India for purchase outside India of raw materials or capital plant and machinery or for the purpose of importing any goods which the Central Government may consider necessary to import in the public interest, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment;": 10 of 1949.

(*c*) after clause (*17*), the following clauses shall be inserted, namely:—

"(*17A*) any payment made, whether in cash or in kind, in pursuance of awards for literary, scientific and artistic work or attainment, or for proficiency in sports and games, instituted by the Central Government or approved by it in this behalf:

Provided that the approval granted by the Central Government shall have effect for such assessment year or years (including an assessment year or years commencing before the date on which such approval is granted) as may be specified in the order granting the approval;

(*17B*) any payment made, whether in cash or in kind, as a reward by the Central Government or any State Government for such purposes as may be approved by the Central Government in this behalf in the public interest;".

Amendment of section 32

3. In section 32 of the Income-tax Act, with effect from the 1st day of April, 1975,—

(*a*) in sub-section (*1*), after clause (*v*), the following clause shall be inserted, namely:—

'(*vi*) in the case of a new ship or a new aircraft acquired after the 31st day of May, 1974 by an assessee engaged in the

business of operation of ships or aircraft or in the case of new machinery or plant (other than office appliances or road transport vehicles) installed after that date for the purposes of business of generation or distribution of electricity or any other form of power or of construction, manufacture or production of any one or more of the articles or things specified in the list in the Ninth Schedule, a sum equal to twenty per cent of the actual cost of the ship, aircraft, machinery or plant to the assessee, in respect of the previous year in which the ship or aircraft is acquired or the machinery or plant is installed, or, if the ship, aircraft, machinery or plant is first put to use in the immediately succeeding previous year, then, in respect of that previous year; but any such sum shall not be deductible in determining the written down value for the purposes of clause (*ii*):

Provided that no deduction shall be allowed under this clause in respect of any machinery or plant installed in any office premises or any residential accommodation, including any accommodation in the nature of a guest house.

Explanation.—For the purposes of this clause,—

(*1*) "new ship" or "new aircraft" includes a ship or aircraft which before the date of acquisition by the assessee was used by any other person, if it was not at any time previous to the date of such acquisition owned by any person resident in India;

(*2*) "new machinery or plant" includes machinery or plant which before its installation by the assessee was used outside India by any other person, if the following conditions are fulfilled, namely:—

(*a*) such machinery or plant was not, at any time previous to the date of such installation by the assessee, used in India;

(*b*) such machinery or plant is imported in India by the assessee from any country outside India; and

(*c*) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of the Indian Income-tax Act, 1922 or this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee;";

11 of 1922

(*b*) in sub-section (*2*), after the words, brackets and figure "or clause (*v*)", the words, brackets and figures "or clause (*vi*)" shall be inserted.

Amendment of Section 34.

4. In section 34 of the Income-tax Act, with effect from the 1st day of April, 1975,—

(*a*) in clause (*ii*) of sub-section (*2*), after the words, brackets and figures "or clause (*iv*)", the words, brackets and figures "or clause (*v*) or clause (*vi*)" shall be inserted;

(*b*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*2A*) The deduction under clause (*vi*) of sub-section (*1*) of section 32 shall not be allowed in respect of any machinery or plant installed by the assessee for the purposes of business of construction, manufacture or production of any one or more of the articles or things specified in the list in the Ninth Schedule unless the assessee furnishes, before the expiry of the time allowed under sub-section (*1*) or sub-section (*2*) of section 139 (whether fixed originally or on extension) for furnishing the return of income for the assessment year for which the deduction is claimed, a certificate from the prescribed authority to the effect that the machinery or plant has been installed for the purposes of such business, so, however, that where the Income-tax Officer is satisfied that the assessee was prevented by sufficient cause from furnishing the certificate within the time so allowed, he may allow the assessee to furnish the certificate at any time before the assessment is made.".

Amendment of section 35

5. In section 35 of the Income-tax Act,—

(*a*) in clause (*i*) of sub-section (*1*), the following *Explanation* shall be inserted at the end with effect from the 1st day of April, 1974, namely:—

"*Explanation.*—Where any such expenditure has been laid out or expended before the commencement of the business (not being expenditure laid out or expended before the 1st day of April, 1973) on payment of any salary [as defined in *Explanation* 2 below sub-section (5) of section 40A] to an employee engaged in such scientific research or on the purchase of materials used in such scientific research, the aggregate of the expenditure so laid out or expended within the three years immediately preceding the commencement of the business shall, to the extent it is certified by the prescribed authority to have been laid out or expended on such scientific research, be deemed to have been laid out or expended in the previous year in which the business is commenced;";

(*b*) in clause (*iv*) of sub-section (*2*), for the word, brackets and figures "and (*iii*)", the brackets, figures and word ", (*iii*) and (*vi*)" shall be substituted with effect from the 1st day of April, 1975;

(*c*) after sub-section (*2*), the following sub-section shall be inserted with effect from the 1st day of April, 1974, namely:—

"(*2A*) Where the assessee pays any sum to a scientific research association or university or college or other institution referred to in clause (*ii*) of sub-section (*1*) to be used for scientific research related to the business carried on by him, then,—

(*a*) there shall be allowed a deduction of a sum equal to one and one-third times the sum so paid; and

(*b*) no deduction in respect of such sum shall be allowed under clause (*ii*) of sub-section (*1*) for the same or any other assessment year:

Provided that the scientific research is undertaken under a programme approved in this behalf by the prescribed authority having regard to the social, economic and industrial needs of India.

Explanation.—Where any such sums have been paid before the commencement of the business (not being sums paid before the 1st day of April, 1973), the aggregate of the sums so paid within the three years immediately preceding the commencement of the business shall be deemed to have been paid in the previous year in which the business is commenced.".

Amendment of section 35B.

6. In section 35B of the Income-tax Act, in clause (*a*) of sub-section (*1*), the following proviso shall be inserted at the end, namely:—

'Provided that in respect of the expenditure incurred after the 28th day of February, 1973 by a domestic company, being a company in which the public are substantially interested, the provisions of this clause shall have effect as if for the words "one and one-third times", the words "one and one-half times" had been substituted.'.

Amendment of section 40A.

7. In section 40A of the Income-tax Act, in sub-section (5), in sub-clause (*i*) of clause (c), the following proviso shall be inserted at the end with effect from the 1st day of April, 1974, namely:—

"Provided that where the expenditure is incurred on payment of any salary to an employee or a former employee engaged in scientific research during any one or more of the three years immediately preceding the commencement of the business and such expenditure is deemed under the *Explanation* to clause (*i*) of sub-section (*1*) of section 35 to have been laid out or expended in the previous year in which the business is commenced, the limit referred to in this sub-clause shall, in relation to the previous year in which the business is commenced, be an amount calculated at the rate of five thousand rupees for each month or part thereof comprised in the period of his employment in India during the previous year in which such business is commenced and in the period of his employment in India during which he was engaged in scientific research during the three years immediately preceding that previous year;".

Amendment of section 80A.

8. In section 80A of the Income-tax Act, in sub-section (*3*), for the word, figures and letter "section 80H", the words, figures and letters "section 80H or section 80HH" shall be substituted with effect from the 1st day of April, 1974.

Insertion of new section 80HH.

9. In the Income-tax Act, after section 80H, the following section shall be inserted with effect from the 1st day of April, 1974, namely:—

Deduction in respect of profits and gains from newly established industrial under-

'80HH. (*1*) Where the gross total income of an assessee includes any profits and gains derived from an industrial undertaking, or the business of a hotel, to which this section applies, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to twenty per cent. thereof.

takings or hotel business in backward areas.

(2) This section applies to any industrial undertaking which fulfills all the following conditions, namely:—

(i) it has ben begun or begins to manufacture or produce articles after the 31st day of December, 1970 in any backward area specified in the list in the Eighth Schedule;

(ii) it is not formed by the splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of any industrial undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such industrial undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section

(iii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose;

(iv) it employs ten or more workers in a manufacturing process carried on with the ad of power, or employs twenty or more workers in a mauafacturing process carried on without the aid of power.

Explanation 1.—For the purposes of clause (iii) of this sub-section, any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if the conditions laid down in clause (2) of the *Explanation* to Clause (vi) of sub-section (1) of section 32 are fulfilled.

Explanation 2.—Where any machinery or plant or any part thereof previous used for any purpose is transferred to a new business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent. of the total value of the machinery or plant used in the business, then, for the purposes of clause (iii) of this sub-section, the condition specified therein shall be deemed to have been fulfilled.

(3) This section applies to the business of any hotel, where all the following conditions are fulfilled, namely:—

(i) the business of the hotel has started or starts functioning after the 31st day of December, 1970 in any backward area specified in the list in the Eighth Schedule;

(ii) the business of the hotel is not formed by the splitting up, or the reconstruction, of a business already in existence;

(iii) the hotel is for the time being approved for the purposes of this sub-section by the Central Government.

(4) The deduction specified in sub-section (1) shall be allowed in computing the total income in respect of each o fthe ten assessment years beginning with the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or the business of the hotel starts functioning

Provided that,—

(*i*) in the case of an industrial undertaking which has begun to manufacture or produce articles, and

(*ii*) in the case of the business of a hotel which has started functioning,

after the 31st day of December, 1970 but before the 1st day of April, 1973, this sub-section shall have effect as if the reference to ten assessment years were a reference to ten assessment years as reduced by the number of assessment years which expired before the 1st day of April, 1974.

(5) Where the assessee is a person other than a company or a co-operative society, the deduction under sub-section (*1*) shall not be admissible unless the accounts of the industrial undertaking or the business of the hotel for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant as defined in the *Explanation* below sub-section (*2*) of section 288 and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form duly signed and verified by such accountant.

(6) Where any goods held for the purposes of the business of the industrial undertaking or the hotel are transferred to any other business carried on by the assessee, or where any goods held for the purposes of any other business carried on by the assessee are transferred to the business of the industrial undertaking or the hotel and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the business of the industrial undertaking or the hotel does not correspond to the market value of such goods as on the date of the transfer, then, for the purposes of the deduction under this section, the profits and gains of the industrial undertaking or the business of the hotel shall be computed as if the transfer, in either case, had been made at the market value of such goods as on that date:

Provided that where, in the opinion of the Income-tax Officer, the computation of the profits and gains of the industrial undertaking or the business of the hotel in the manner hereinbefore specified presents exceptional difficulties, the income-tax Officer may compute such profits and gains on such reasonable basis as he may deem fit.

Explanation.—In this sub-section, "market value", in relation to any goods means the price that such goods would ordinarily fetch on sale in the open market.

(7) Where it appears to the Income-tax Officer that, owing to the close connection between the assessee carrying on the business of the industrial undertaking or the hotel to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in the business of the industrial undertaking or the hotel the Income-tax Officer shall, in computing the profits and gains of the industrial undertaking or the hotel for the purposes of the deduction under this section, take the

amount of profits as may be reasonably deemed to have been derived therefrom.

(*8*) In a case where the assessee is entitled also to the deduction under section 80H in relation to the profits and gains of an industrial undertaking to which this section applies, the deduction under sub-section (*1*) shall be allowed with reference to the amount of such profits and gains as reduced by the deduction under section 80H in relation to such profits and gains.

(*9*) In a case where the assessee is entitled also to the deduction under section 80J in relation to the profits and gains of an industrial undertaking or the business of a hotel to which this section applies, effect shall first be given to the provisions of this section.

(*10*) Nothing contained in this section shall apply in relation to any undertaking engaged in the construction of ships or in mining.'.

Amendment of section 80J.

10. In section 80J of the Income-tax Act, with effect from the 1st day of April, 1974,—

(*a*) in sub-section (*1*), for the brackets, words, figures and letter "(reduced by the deduction, if any, admissible to the assessee under section 80H)", the brackets, words, figures and letters "(reduced by the aggregate of the deductions, if any, admissible to the assessee under section 80H and section 80HH)" shall be substituted;

(*b*) in sub-section (*3*), for the word, figures and letter "section 80H", the words, figures and letters "section 80H, section 80HH" shall be substituted.

Amendment of section 80 P.

11. In section 80P of the Income-tax Act, in sub-section (*3*), with effect from the 1st day of April, 1974,—

(*a*) for the words, figures and letters "section 80H or section 80J", the words, figures and letters "section 80H or section 80HH or section 80J" shall be substituted;

(*b*) for the words, figures and letters "section 80H and section 80J", the words, figures and letters "section 80H, section 80HH and section 80J" shall be substituted.

Amendment of section 80QQ.

12. In section 80QQ of the Income-tax Act, in sub-section (*2*), with effect from the 1st day of April, 1974,—

(*a*) for the words, figures and letters "section 80H or section 80J", the words, figures and letters "section 80H or section 80HH or section 80J" shall be substituted;

(*b*) for the words, figures and letters "sections 80H, 80J and 80P", the words, figures and letters "section 80H, section 80HH, section 80J and section 80P" shall be substituted.

Amendment of section 271.

13. In section 271 of the Income-tax Act, for clause (*i*) of sub-section (*1*), the following clause shall be substituted and shall be deemed always to have been substituted, namely:—

'(*i*) in the cases referred to in clause (*a*), in addition to the amount of the tax, if any, payable by him, a sum equal to two per cent. of the assessed tax for every month during which the default continued, but not exceeding in the aggregate fifty per cent. of the assessed tax.

Explanation.—In this clause, "assessed tax" means tax as reduced by the sum, if any, deducted at source under Chapter XVII-B or paid in advance under Chapter XVII-C;'.

Amendment of section 295.

14. In section 295 of the Income-tax Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) The power to make rules conferred by this section shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the rules or any of them and, unless the contrary is permitted (whether expressly or by necessary implication), no retrospective effect shall be given to any rule so as to prejudicially affect the interests of assessees.".

Insertion of eighth Schedule.

15. In the Income-tax Act, after the Seventh Schedule, the following Schedule shall be inserted with effect from the 1st day of April, 1974, namely: —

"THE EIGHTH SCHEDULE

(*See* section 80HH)

List of backward areas

Name of State or Union territory (1)	*Backward areas* (2)
Andhra Pradesh	The districts of Anantapur, Chittoor, Cuddapah, Karimnagar, Khammam, Kurnool, Mahbubnagar, Medak, Nalgonda, Nellore, Nizamabad, Ongole, Srikakulam and Warangal.
Assam	The districts of Cachar, Goalpara, Kamrup, Lakhimpur, Mikir Hills, North Cachar Hills and Nowgong.
Bihar	The districts of Bhagalpur, Champaran, Darbhanga, Muzaffarpur, Palamau, Purnea, Saharsa, Santal Parganas and Saran.
Gujarat	The districts of Amreli, Banas Kantha, Bharuch, Bhavnagar, Junagadh, Kutch, Mahesana, Panch Mahals, Sabar Kantha and Surendranagar.
Haryana	The districts of Hisar, Jind and Mahendragarh.
Himachal Pradesh	The districts of Chamba, Kangra, Kinnaur, Kulu and Lahul and Spiti.
Jammu and Kashmir	The districts of Anantnag, Baramula, Doda, Jammu, Kathua, Ladakh, Punch, Rajauri, Srinagar and Udhampur.
Kerala	The districts of Alleppey, Cannanore, Malappuram, Trichur and Trivandrum.
Madhya Pradesh	The districts of Balaghat, Bastar, Betul, Bilaspur, Bhind, Chhatarpur, Chhindwara, Damoh, Datia, Dhar, Dewas, Guna, Hoshangabad, Jhabua, Khargone, Mandla, Mandsaur, Morena, Narsimhapur, Panna, Raigarh, Raipur, Rajgarh, Raisen, Ratlam, Rewa, Sagar, Sehore, Seoni, Shajapur, Shivpuri, Sidhi, Surguja, Tikkamgarh and Vidisha.

(1)	(2)
Maharashtra	The districts of Aurangabad, Bhandara, Bhir, Buldhana, Chandrapur, Dhulia, Jalgaon, Kolaba. Nanded, Osmanabad, Parbhani, Ratnagiri and Yeotmal.
Manipur	The whole of the State.
Meghalaya	The districts of Garo Hills and United Khasi and Jaintia Hills.
Mysore	The districts of Belgaum, Bidar, Bijapur, Dharwar, Gulbarga, Hassan, Mysore, North Kanara, Raichur, South Kanara and Tumkur.
Nagaland	The whole of the State.
Orissa	The districts of Balasore, Bolangir, Dhenkanal, Kalahandi, Keonjhar, Koraput, Mayurbhanj and Phulbani.
Punjab	The districts of Bhatinda, Gurdaspur, Hoshiarpur and Sangrur.
Rajasthan	The districts of Alwar, Banswara, Barmer, Bhilwara, Churu, Dungarpur, Jaisalmer, Jalor, Jhunjhunun, Jhalawar, Jodhpur, Nagaur, Sikar, Sirohi, Tonk and Udaipur.
Tamil Nadu	The districts of Dharmapuri, Kanyakumari, Madurai, North Arcot, Ramanathapuram, South Arcot, Thanjavur and Tiruchirapalli.
Tripura	The whole of the State.
Uttar Pradesh	The districts of Almora, Azamgarh, Budaun, Baharaich, Ballia, Banda, Bara Banki, Basti, Bulandshahr, Chamoli, Deoria, Etah, Etawah, Faizabad, Farrukhabad, Fatehpur, Garhwal, Ghazipur, Gonda, Hamirpur, Hardoi, Jalaun, Jaunpur, Jhansi, Mainpuri, Mathura, Moradabad, Pilibhit, Pithoragarh, Pratapgarh, Rae Bareli, Shahjahanpur, Sultanpur, Tehri-Garhwal, Unnao and Uttarkashi.
West Bengal	The districts of Bankura, Birbhum, Burdwan, Cooch Behar, Darjeeling, Hooghly, Jalpaiguri, Malda, Midnapore, Murshidabad, Nadia, Purulia and West Dinajpur.
Andaman and Nicobar Islands	The whole of the Union territory.
Arunachal Pradesh	The whole of the Union territory.
Dadra and Nagar Haveli	The whole of the Union territory.
Goa, Daman and Diu	The whole of the Union territory.
Laccadive, Minicoy and Amindivi Islands	The whole of the Union territory.
Mizoram	The whole of the Union territory.
Pondicherry	The whole of the Union territory.".

16. In the Income-tax Act, the following Schedule shall be inserted at the end with effect from the 1st day of April, 1975, namely:— Insertion of Ninth Schedule.

"THE NINTH SCHEDULE

[*See* section 32 (1) (*vi*)]

List of articles or things

1. Iron and steel (metal)
2. Non-ferrous metals.
3. Ferro-alloys and special steels.
4. Steel castings and forgings.
5. Thermal and hydro power generation equipment.
6. Transformers and switch gears.
7. Electric motors.
8. Industrial and agricultural machinery.
9. Earth moving machinery.
10. Machine tools.
11. Nitrogenous and phosphatic fertilisers
12. Soda ash.
13. Caustic soda.
14. Commercial vehicles.
15. Ships.
16. Aircraft.
17. Tyres and tubes.
18. Paper, pulp and newsprint.
19. Sugar.
20. Vegetable oils.
21. Cotton and jute textiles.
22. Cement.".

CHAPTER III

AMENDMENT TO THE WEALTH-TAX ACT, 1957

17. In section 46 of the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act), for sub-section (*3*), the following sub-section shall be substituted, namely:— 27 of 1957. Amendment of section 46.

"(*3*) The power to make rules conferred by this section shall include the power to give retrospective effect, from a date not earlier than the date of Commencement of this Act, to the rules or any of them and, unless the contrary is permitted (whether expressly or by necessary implication), no retrospective effect shall be given to any rule so as to prejudicially affect the interests of assessees.".

CHAPTER IV

AMENDMENTS TO THE GIFT-TAX ACT, 1958

18. In section 17 of the Gift-tax Act, 1958 (hereinafter referred to as the Gift-tax Act), for clause (*i*) of sub-section (*1*), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1963, namely:— 18 of 1958. Amendment of section 17.

'(*i*) *in* the cases referred to in clause (*a*), in addition to the amount of the gift-tax, if any, payable by him, a sum equal to two per cent. of the assessed tax for every month during which the default continued, but not exceeding in the aggregate fifty per cent. of the assessed tax.

Explanation.—In this clause, "assessed tax" means the gift-tax chargeable under the provisions of this Act as reduced by the amount, if any, for which credit is allowed under section 18;'.

Amendment of section 46.

19. In section 46 of the Gift-tax Act, for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) The power to make rules conferred by this section shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the rules or any of them and, unless the contrary is permitted (whether expressly or by necessary implication), no retrospective effect shall be given to any rule so as to prejudicially affect the interests of assessees.".

CHAPTER V

AMENDMENTS TO THE COMPANIES (PROFITS) SURTAX ACT, 1964

Amendment of section 9.

20. In section 9 of the Companies (Profits) Surtax Act, 1964 [hereinafter referred to as the Companies (Profits) Surtax Act], in clause (*a*), for the words "surtax payable", the words "surtax chargeable under the provisions of this Act" shall be substituted and shall be deemed always to have been substituted. 7 of 1964.

Amendment of section 25.

21. In section 25 of the Companies (Profits) Surtax Act, after sub-section (**2**), the following sub-section shall be inserted, namely:—

"(*2A*) The power to make rules conferred by this section shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the rules or any of them and, unless the contrary is permitted (whether expressly or by necessary implication), no retrospective effect shall be given to any rule so as to prejudicially affect the interests of assessees.".

CHAPTER VI

MISCELLANEOUS

Section 13 not to apply in certain cases.

22. Where, in the case of an assessee, the Supreme Court has, before the date of introduction of the Direct Taxes (Amendment) Bill, 1973 in the House of the People, held, on an appeal in respect of an order imposing a penalty under clause (*i*) of sub-section (*1*) of section 271 of the Income-tax Act for any particular assessment year, that the expression "the amount of the tax, if any, payable by him" in the said clause shall be construed as the amount of the tax payable by him under the notice of demand under section 156 of that Act issued in pursuance of an order of assessment, nothing contained in section 13 of this Act shall apply in relation to the order of penalty in the case of such assessee for that particular year.

Special provision as to effect of section 18(1)(i) of Wealth-tax Act, as it stood during certain period.

23. Clause (*i*) of sub-section (*1*) of section 18 of the Wealth-tax Act, as it stood during the period commencing on the 1st day of April, 1965 and ending with the 31st day of March, 1969, shall have and be deemed always to have effect as if the words "the tax" occurring therein, at both the places, mean the wealth-tax chargeable under the provisions of that Act.

24. Clause (*i*) of sub-section (*1*) of section 17 of the Gift-tax Act, as it stood before the 1st day of April, 1963, shall have and be deemed always to have effect as if the words "such tax" occurring therein mean the gift-tax chargeable under the provisions of that Act as reduced by the amount, if any, for which credit is allowed under section 18 of that Act.

Special provision as to effect of section 17 (1) (i) of Gift-tax Act, as it stood during certain period.

STATEMENT OF OBJECTS AND REASONS

The object of this Bill is to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and the Companies (Profits) Surtax Act, 1964 and to provide for certain related matters.

2. The main objects of the amendments proposed to be made in the Income-tax Act are as follows:—

(*i*) to provide for certain tax concessions for encouraging industries in selected sectors and those in backward areas, as also for promotion of research and development and exports;

(*ii*) to bring out the intention underlying the provision in section 271(*1*)(*i*) of the Act relating to imposition of penalty for delay or default in furnishing returns of income with a view to removing the difficulty resulting from the recent ruling of the Supreme Court in the case of *Commissioner of Income-tax* vs. *Vegetable Products Ltd.* [(1973) 88 ITR 192];

(*iii*) to provide for exemption from tax in respect of interest payable by public financial institutions and banking companies established in India on loans raised in foreign countries in certain cases;

(*iv*) to provide for exemption from tax in respect of awards for literary, scientific and artistic work, or for proficiency in sports and games, instituted or approved by the Central Government;

(*v*) to provide for exemption from tax in respect of rewards given by the Central or any State Government for approved purposes;

(*vi*) to remove a practical difficulty in the working of the provision relating to tax exemption in respect of remuneration of certain foreign technicians; and

(*vii*) to empower the Central Board of Direct Taxes to make rules with retrospective effect to give effect to subordinate legislation which is not prejudicial to the interests of taxpayers.

3. The object of the amendments to the Wealth-tax Act, the Gift-tax Act and the Companies (Profits) Surtax Act is to bring the provisions therein relating to penalties for late submission of returns of net wealth, gifts and chargeable profits and the provisions relating to the power to make rules in line with the corresponding provisions proposed to be made in the Income-tax Act.

4. The notes on clauses explain the various provisions of the Bill.

Y. B. CHAVAN.

NEW DELHI;

The 27th August, 1973.

Notes on clauses

Clause 2.—This clause seeks to make certain amendments in section 10 of the Income-tax Act relating to incomes not included in the total income.

Sub-clause (a) seeks to insert a proviso in sub-clause (viia) of clause (6) of section 10. Under the existing provisions of sub-clause (viia) of clause (6), the remuneration received by a foreign technician is exempt from income-tax for a specified period if certain specified conditions are fulfilled. One of the conditions is that the technician should not have been resident in India in any of the four financial years immediately preceding the financial year in which he arrives in India. Under the amendment, the Central Government will be empowered to waive this condition in the case of technicians who are employed in India for designing, erection or commissioning of machinery or plant or supervising activities connected therewith, if it considers it necessary or expedient to do so in the public interest.

Sub-clause (b) seeks to insert new items (d) and (e) in sub-clause (iv) of clause (15) of section 10. Under the amendment, interest payable by specified public financial institutions on moneys borrowed from sources outside India will be exempt from income-tax to the extent to which the interest does not exceed the amount of interest calculated at the rate approved by the Central Government having regard to the terms of the loan and its repayment. The specified public financial institutions are the Industrial Finance Corporation of India, the Industrial Development Bank of India and the Industrial Credit and Investment Corporation of India. Similar exemption will also be available in respect of interest payable by any other financial institution or a banking company established in India on loans raised in foreign countries under approved agreements for the purpose of advancing loans to industrial undertakings in India for importing raw materials or capital plant and machinery or other goods which the Central Government may consider necessary to import in the public interest.

Sub-clause (c) seeks to insert new clauses (17A) and (17B) in section 10.

Under new clause (17A), awards for literary, scientific and artistic work, as also for proficiency in sports and games, instituted or approved by the Central Government will be exempt from income-tax.

New clause (17B) provides for exemption from income-tax in respect of rewards given by the Central Government or State Governments for such purposes as may be approved by the Central Government in this behalf in the public interest.

These amendments will take effect from 1st April, 1973.

Clause 3.—This clause seeks to amend section 32 of the Income-tax Act relating to deduction in respect of depreciation.

Sub-clause (a) seeks to insert a new clause (vi) in sub-section (*1*) of section 32. The new clause (vi) provides for deduction, by way of initial depreciation, of a sum equal to 20 per cent. of the actual cost of new machinery or plant (other than office appliances or road transport vehicles) installed after 31st May, 1974 for the purposes of business of generation or distribution of electricity or any other form of power or of construction, manufacture or production of any one or more of the articles or things specified in the Ninth Schedule which is proposed to be inserted in the Income-tax Act under clause 16 of the Bill. This deduction will also be admissible in respect of new ships or new aircraft acquired after 31st May, 1974 by a taxpayer engaged in the business of the operation of ships or aircraft. Second-hand ships or aircraft which were not previously used by any person resident in India and reconditioned machinery or plant imported from abroad will also qualify for the grant of initial depreciation allowance, subject to certain conditions. No deduction will, however, be admissible in respect of any machinery or plant installed in any business premises or residential accommodation, including a guest house. The initial depreciation will not be deductible for determining the written down value for the purposes of normal depreciation for the years following the year in which the allowance is granted.

Sub-clause (b) seeks to make a consequential amendment in sub-section (2) of section 32.

These amendments will take effect from 1st April, 1975.

Clause 4.—This clause seks to make certain amendments in section 34 of the Income-tax Act relating to conditions for depreciation allowance and development rebate.

Sub-clause (a) seeks to amend sub-section (2) of section 34 of the Income-tax Act. Under this amendment, initial depreciation under the new clause (vi) proposed to be inserted in sub-section (1) of section 32 by clause 3 of the Bill, as also under the existing clause (v) of that sub-section, will not be allowed in the year in which the asset is sold, discarded, demolished or destroyed.

Sub-clause (b) seeks to insert a new sub-section (2A) in section 34 of the Income-tax Act. New sub-section (2A) provides that the deduction under the said new clause (vi) will not be allowed in respect of machinery or plant installed for the purposes of the business of construction, manufacture or production of any one or more of the articles or things specified in the Ninth Schedule proposed to be inserted under clause 16 of the Bill unless the taxpayer furnishes a certificate from the prescribed authority to the effect that the machinery or plant has been installed for the purposes of such business.

These amendments will take effect from 1st April, 1975.

Clause 5.— This clause seeks to amend section 35 of the Income-tax Act relating to deductions in respect of expenditure on scientific research.

Sub-clause (a) seeks to insert a new *Explanation* in clause (i) of sub-section (1) of section 35. Under the new *Explanation* expenditure incurred within three years immediately preceding the commencement of the business on payment of salary to research personnel engaged in scientific research related to the business carried on by the taxpayer or on material inputs for such scientific research will be allowed as deduction in the year in which the business is commenced. The deduction will be available only in respect of expenditure incurred after 31st March, 1973 and will be limited to the amount certified by the prescribed authority.

Sub-clause (b) seeks to amend sub-section (2) of section 35. This amendment is consequential to the insertion of a new clause (vi) in sub-section (1) of section 32 of the Income-tax Act under clause 3 of the Bill.

Sub-clause (c) seeks to insert a new sub-section (2A) in section 35. New sub-section (2A) provides that where the taxpayer pays after 31st March, 1973, any sum to an approved scientific research association, university, college or other institution for sponsored research related to his business, he will be allowed a weighted deduction equal to one and one-third times the sum so paid. This deduction will be admissible only where the scientific research is undertaken under a programme approved by the prescribed authority having regard to the social, economic and industrial needs of India. Similar deduction will also be available in respect of expenditure incurred on sponsored research within the three years immediately preceding the commencement of the business.

Clause 6.—This clause seeks to amend section 35B of the Income-tax Act relating to export markets development allowance. Under the amendment, the weighted deduction in respect of export markets development allowance in the case of domestic companies in which the public are substantially interested will be increased from one and one-third times the amount of the qualifying expenditure to one and one-half times the amount of such expenditure incurred after 28th February, 1973. This amendment will take effect from 1st April, 1973.

Clause 7.—This clause seeks to amend section 40A of the Income-tax Act under which expenses or payments are not deductible in certain circumstances. These amendments are consequential to the amendment of section 35 of the Income-tax Act under sub-clause (a) of clause 5 of the Bill.

Clause 8.—This clause seeks to amend section 80A of the Income-tax Act relating to deductions to be made in computing total income. This amendment is consequential to the insertion of a new section 80HH in the Income-tax Act under clause 9 of the Bill.

Clause 9.—This clause seeks to insert a new section 80HH in the Income-tax Act. Under the new section, a taxpayer deriving profits and gains from a new industrial undertaking or the business of a hotel set up in any specified backward area will be entitled to a deduction, in the computation of his total income, in an amount equal to 20 per cent. of such profits and gains. The backward areas are specified in the Eighth Schedule proposed to be inserted in the Income-tax Act under clause 15 of the Bill. Where the industrial undertaking commences production or the hotel starts functioning after 31st March, 1973, the deduction will be allowed for each of the ten assessment years beginning with the

assessment year relevant to the previous year in which the industrial undertaking commences production or the hotel starts functioning. However, where the industrial undertaking has begun to manufacture or produce articles, or the hotel has started functioning before 1st April, 1973 but after 31st December, 1970, the number of assessment years for which the deduction is to be allowed will be reduced by the number of assessment years that have expired before 1st pril, 1974. The deduction will be allowed only if the industrial undertaking or the business of the hotel fulfills the conditions specified in the new section.

Where any goods held for the purposes of the business of the industrial undertaking or the hotel are transferred to any other business carried on by the taxpayer, or *vice versa* and the consideration for such transfer is, in either case, not recorded in the accounts of the industrial undertaking or the hotel at the market value, the profits and gains of the industrial undertaking or the hotel, for the purposes of determining the deduction admissible under the new section, will be computed as if the transfer had been made at the market value of such goods. In cases of exceptional difficulties, the Income-tax Officer will have the power to compute the profits and gains of the industrial undertaking or the hotel on any other reasonable basis. Where because of close connection between the taxpayer carrying on the business of the industrial undertaking or the hotel and any other person, or for any other reason, more than ordinary profits arise in the business of the industrial undertaking or the hotel, the Income-tax Officer will have the power to determine the reasonable profits that could be attributed to the undertaking or the business of the hotel for the purposes of the deduction under the new section.

This amendment will take effect from the 1st April, 1974.

Clause 10.—This clause seeks to amend section 80J of the Income-tax Act relating to deduction in respect of profits and gains from newly established industrial undertakings, etc. This amendment is consequential to the insertion of a new section 80HH in the Income-tax Act under clause 9 of the Bill.

Clause 11.—This clause seeks to amend section 80P of the Income-tax Act relating to deduction in respect of income of co-operative societies. This amendment is consequential to the insertion of a new section 80HH in the Income-tax Act under clause 9 of the Bill.

Clause 12.—This clause seeks to amend section 80QQ of the Income-tax Act relating to deduction in respect of profits and gains from the business of publication of books. This amendment is consequential to the insertion of a new section 80HH in the Income-tax Act under clause 9 of the Bill.

Clause 13.—This clause seeks to substitute a new clause for the existing clause (i) of sub-section (1) of section 271 of the Income-tax Act (relating to penalty for failure to furnish returns) retrospectively from 1st April, 1962, *i.e.*, the date from which the Income-tax Act came into force. The effect of this amendment will be that penalty for failure to furnish the return of income or for failure to furnish it within the time allowed or in the manner required will be calculated with reference to the amount of income-tax chargeable on the total income as reduced by any sum deducted at source or paid in advance under the provisions of Chapter XVII-B or XVII-C of the Income-tax Act.

Clause 14.—This clause seeks to insert a new sub-section (4) in section 295 of the Income-tax Act relating to the powers of the Central Board of Direct Taxes to make rules for carrying out the purposes of that Act. Under the amendment, the Board will be empowered to give retrospective effect to any of the rules as do not prejudicially affect the interests of any taxpayer. This amendment will take effect from 1st April, 1973.

Clause 15.—This clause seeks to insert a new Schedule, namely, the Eighth Schedule in the Income-tax Act. The new Schedule specifies the backward areas for the purposes of new section 80HH proposed to be inserted in the Income-tax Act under clause 9 of the Bill.

Clause 16.—This clause seeks to insert a new Schedule, namely, the Ninth Schedule in the Income-tax Act. The new Schedule specifies the articles or things for the purposes of new clause (vi) proposed to be inserted in sub-section (1) of section 32 of the Income-tax Act under clause 3 of the Bill.

Clause 17.—This clause seeks to substitute a new sub-section for the existing sub-section (3) of section 46 of the Wealth-tax Act relating to the power of the Central Board of Direct Taxes to make rules for carrying out the purposes of that Act. Under the amendment, the Board will be empowered to give retrospective effect to any of the rules as do not prejudicially affect the interests of any taxpayer. This amendment will take effect from 1st April, 1973.

Clause 18.—This clause seeks to amend section 17 of the Gift-tax Act (relating to penalty for failure to furnish returns, to comply with notices and concealment of gifts, etc.) retrospectively from 1st April, 1963. The effect of this amendment will be that penalty for failure to furnish return of gifts or for failure to furnish it within the time allowed or in the manner required will be calculated with reference to the amount of gift-tax chargeable on the taxable gifts as reduced by the amount for which credit is allowed under section 18 of the Gift-tax Act.

Clause 19.—This clause seeks to substitute a new sub-section for the existing sub-section (3) of section 46 of the Gift-tax Act relating to the power of the Central Board of Direct Taxes to make rules for carrying out the purposes of that Act. Under the amendment, the Board will be empowered to give retrospective effect to any of the rules as do not prejudicially affect the interests of any taxpayer. This amendment will take effect from 1st April, 1973.

Clause 20.—This clause seeks to amend section 9 of the Companies (Profits) Surtax Act (relating to penalties) retrospectively from the commencement of that Act. The effect of this amendment will be that penalty for failure to furnish return of chargeable profits will be calculated with reference to the surtax chargeable under that Act without taking into account any surtax paid on the basis of provisional assessment or otherwise.

Clause 21.—This clause seeks to insert a new sub-section (2A) in section 25 of the Companies (Profits) Surtax Act relating to power of the Central Board of Direct Taxes to make rules for carrying out the

purposes of that Act. Under the amendment, the Board will be empowered to give retrospective effect to any of the rules as do not prejudicially affect the interests of any taxpayer. This amendment will take effect from 1st April, 1973.

Clause 22.—This clause seeks to provide that the amendment relating to clause (i) of sub-section (1) of section 271 of the Income-tax Act under clause 13 of the Bill will not apply in the case of a taxpayer in whose case the Supreme Court has, on an appeal in respect of an order imposing penalty under the existing clause (i) of the said sub-section (1) for any particular assessment year, held that such penalty is to be calculated with reference to the income-tax payable by him in accordance with the notice of demand under section 156 of the Income-tax Act issued in pursuance of an order of assessment. The saving in this clause will apply only in relation to the assessment year in respect of which a decision to this effect has been given by the Supreme Court prior to the introduction of the Bill in the Lok Sabha.

Clause 23.—This clause seeks to provide that for the purposes of clause (i) of sub-section (1) of section 18 of the Wealth-tax Act, as it stood during the period 1st April, 1965 to 31st March, 1969, the words "the tax", will be deemed always to have effect as if they mean the wealth-tax chargeable under the provisions of that Act. The effect of this provision will be that, in cases covered by the provision as it stood during the aforesaid period, the penalty for failure to furnish the return or for failure to furnish it within the time allowed and in the manner required, will be levied with reference to the amount of wealth-tax chargeable on the net wealth without taking into account any amount paid towards self-assessment or provisional assessment or otherwise.

Clause 24.—This clause seeks to provide that for the purposes of clause (i) of sub-section (1) of section 17 of the Gift-tax Act, as it stood before 1st April, 1963, the words "such tax", will be deemed always to have effect as if they mean the tax chargeable under the provisions of that Act. The effect of this provision will be that in cases covered by the provision as it stood before the 1st April, 1963 the penalty for failure to furnish the return or for failure to furnish it within the time allowed and in the manner required, will be levied with reference to the amount of gift-tax chargeable on the taxable gifts as reduced by the amount for which credit is allowed under section 18 of the Gift-tax Act.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill seeks to amend section 34 of the Income-tax Act, 1961 to provide that the deduction by way of initial depreciation shall not be allowed in respect of any machinery or plant installed by the assessee for the purposes of business of construction, manufacture or production of the articles specified in the Ninth Schedule unless the assessee furnishes a certificate from an authority to be prescribed by rules to the effect that the machinery or plant has been installed for the purposes of such business.

2. Clause 5—Sub-clause (a) of this clause seeks to amend section 35 by adding an *Explanation* to sub-section (1)(i). The new *Explanation, inter alia,* provides that the aggregate of the expenditure laid out or expended on payment of salary to persons engaged in scientific research or on material inputs for research within three years immediately preceding the commencement of the business will be deducted in computing the taxable profits only to the extent it is certified by an authority to be prescribed by rules to have been so laid out or expended on such scientific research.

Sub-clause (c) of this clause seeks to insert new sub-section (2A) to allow weighted deduction in respect of expenditure on sponsored research in approved laboratories provided the research is undertaken under a programme approved by an authority to be prescribed by rules having regard to the social, economic and industrial needs of India.

3. Clause 9 seeks to insert a new section 80HH in the Income-tax Act which provides for deduction in respect of profits and gains derived by a taxpayer from newly established industrial undertakings or hotels in backward areas specified in the Eighth Schedule. In the case of persons other than a company or a co-operative society, the deduction will not be admissible unless the accounts of the industrial undertaking or the business of the hotel for the relevant previous year are audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 of the Income-tax Act and the taxpayer furnishes the report of such audit in the form to be prescribed by rules.

4. Clause 14 seeks to insert new sub-section (4) in section 295 of the Income-tax Act, 1961 to enable the Central Board of Direct Taxes to make rules with retrospective effect; but no retrospective effect shall be given to any rule so as to prejudicially affect the interests of assessees. Similar power is being conferred on the Board to make rules under the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and the Companies (Profits) Surtax Act, 1964—clauses 17, 19 and 21. The rules made under the relevant enactments have to be laid before Parliament.

5. The matters in respect of which rules may be made under the amendments which clauses 4, 5 and 9 seek to make are matters of administrative detail and procedure which it is not practicable to provide in the Bill itself. The amendments proposed under clauses 14, 17, 19 and 21 to enable the Central Board of Direct Taxes to make rules with retrospective effect are necessary for reasons of administrative convenience and greater elasticity in the administration of the Acts. Further, it is expressly provided that this power shall not be exercised so as to prejudicially affect the interests of the assessees. Rules made under this power, like all other rules, will have to be laid before both Houses of Parliament. In the circumstances, the delegation of legislative power is of a normal character.

S. L. SHAKDHER,
Secretary.

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